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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 MATTHEW KRIEGER,

Case No. 3:15-cv-00003-HDM-VPC

10 v. Petitioner,

ORDER

11 MR. BACA, et al.,

12 Respondents.

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14 This is a *pro se* habeas matter under 28 U.S.C. § 2254 filed by petitioner  
15 Matthew Krieger. On August 8, 2016, this court granted respondents' motion to dismiss  
16 the petition (ECF No. 20). The court determined that two grounds were unexhausted  
17 and dismissed the remaining grounds. The court directed Krieger, within thirty days, to  
18 either: (1) inform this court in a sworn declaration that he wished to dismiss this petition  
19 without prejudice in order to return to state court to exhaust his unexhausted claims; OR  
20 (2) file a motion for a stay and abeyance, asking this court to hold his federal petition in  
21 abeyance while he returns to state court to exhaust his unexhausted claims. *Id.* at 6.  
22 Krieger was expressly advised that the case would be subject to dismissal if he failed to  
23 respond to the court's order. *Id.*

24 The order was served on Krieger via U.S. mail at his address of record (see ECF  
25 No. 20). More than the allotted time has passed, and Krieger has failed to respond to  
26 the court's order in any way.<sup>1</sup> Accordingly, this habeas action is dismissed.

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<sup>1</sup> The court notes that Krieger also failed to oppose respondents' motion to dismiss or respond to the motion in any manner.

1           **IT IS THEREFORE ORDERED** that this habeas action is **DISMISSED** as set  
2 forth in this order.

3           **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as  
4 jurists of reason would not find the court's dismissal of this improperly commenced  
5 action without prejudice to be debatable or incorrect.

6           **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and  
7 close this case.

8           DATED: June 2<sup>nd</sup>, 2017.



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9           HOWARD D. MCKIBBEN  
10           UNITED STATES DISTRICT JUDGE

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